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| 09/784,499 | 02/15/2001 | Srinivas V. Makam | 2376.2113-001 (PB 00 0015 | 3309 |
| 57690 7590 08/22/2007 HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133 | | | EXAMINER AHMED, SALMAN | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 09/784,499 | Applicant(s) MAKAM ET AL. | |
| | Examiner Salman Ahmed | Art Unit 2616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 30-36 is/are rejected.
- 7) ☒ Claim(s) 37 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-28 and 30-38 are pending.

Claims 1-28, 30-36 are rejected.

Claims 37 and 38 are objected to.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moy et al. (US 2003/0035411, hereinafter Moy) in view of Sandstrom (US 6,697,373)

Regarding claims 1 and 14, Moy discloses an optical transport network (Figure 2, page 4, paragraph [0048], OTN) that includes a plurality of transport network devices (Figure 2, page 4, paragraph [0048], TNDs) that comprise optical cross-connects (Figure 2, page 4, paragraph [0048], OXCs) and add/drop multiplexers (Figure 2, page 4, paragraph [0048], ADMs). Moy also discloses that dynamic bandwidth provisioning on OTNs is possible through the use of network management control systems (paragraph [0005]). Moy discloses that an optical trail is a connection between two interfaced user devices (IUDs) that includes two TNDs connected to the IUDs on either side of the connection (page 5 paragraph [0056]). The two TNDs meet the limitations of the first and second switching circuits of the present invention. An IUD (14) sends a trail creation signal to TND (46), which in turn is sent to TND (48) (page 8 paragraph [0104]). This meets the limitation of a network management system issuing a connection create request and sending this request to the first switching circuit. The size of the connection to be created is indicated in the trail creation signal (page 8 paragraph [0110]), which indicates the resources that need to be reserved. Moy discloses that optical trail signals are transmitted in accordance with an extension to known protocols such as Resource Reservation Setup Protocol (RSVP) (page 8 paragraph [0102]). RSVP is well known in the art to include Path Messages to setup a connection, thus Moy also discloses the transmission of a trail creation signal from the first switching circuit to the second switching circuit using a path setup message. Moy discloses that a user device is configured to send out a modification signal requesting the modification of the bandwidth characteristic of an existing optical trail (page 10, paragraph [00152]). Moy

discloses first switching circuit included in-a-SONET communication network having at least three switching circuits (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048], a plurality of transport network devices (TNDs) that comprise optical cross-connects (OXCs) and add/drop multiplexers (ADMs)). Moy further discloses connection modify command (page 4 section 0152, non-destructive modify signal) being formed by network management system without determination usage statistics for all of switching circuits in SONET communication network (page 4 section 0152-0153, A modify signal requests the TNC to modify a bandwidth characteristic of an existing optical trail. For example, the modification signal requests that the TNC decrease an amount of bandwidth provisioned for an optical trail, or change the priority of an optical trail in relation to other connections. The TNC may be configured to grant the requested modification by either changing the existing optical trail in accordance with the request or by deleting the existing optical trail and creating a new optical trail according to changes specified by the modification signal).

Moy fails to expressly disclose the reservation of virtual concatenated resources in modifying an existing connection.

Sandstrom in the same field of endeavor discloses the dynamic adjustment of SDH/SONET connections by adding or removing the paths formed of virtual-concatenated paths (col. 2, lines 59-65).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to dynamically adjust the bandwidth of the optical trails in the invention of Moy by adding or removing virtual-concatenated paths as taught by

Sandstrom. One of ordinary skill in the art would have been motivated to do this in order to transport the packets as efficiently as possible in terms of the required bandwidth.

Regarding claims 12 and 25, Moy fails to expressly disclose that the switching circuits comprise buffers for accommodating differential delays in data processing.

Sandstrom in the same field of endeavor discloses packet terminals (PTs) that operate as ADMs and comprise buffers for switching traffic of different traffic priority classes (col. 6, line 30 – col. 7, line 28).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include buffers in the TNDs of the invention of Moy as taught by Sandstrom. One of ordinary skill in the art would have been motivated to do this in order to process data of a connection of a higher priority class while holding data for a connection of lower priority.

Regarding claims 2, 3, 15 and 16, Moy discloses that the TNDs being ADMs or OXCs, wherein a TND is capable of converting between optical and electrical signals, processing electrical signals, and converting between electrical and optical signals (paragraph [0048]).

Regarding claims 4 and 17, Moy discloses that the OTN being a SONET or SDH network (paragraph [0045]).

Regarding claims 5 and 18, Moy discloses that the signaling protocol being carried out-of-band (paragraph [0123]).

Regarding claims 6, 7, 19 and 20, Moy discloses using the RSVP signaling protocol (paragraph [0102]).

Regarding claims 8 and 21, Moy in view of Sandstrom fails to expressly disclose first and second acknowledge messages. However, Moy does disclose using RSVP (paragraph [0102]), which is well known in the art to use acknowledge messages to verify communications. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to send an acknowledgement after receiving the trail creation signal in the invention of Moy. One of ordinary skill in the art would have been motivated to do this in order to verify that the signal was received.

Regarding claims 9 and 22, Moy discloses that the transport network controller, which is a TND, notify the requesting device that an optical trail has been created (paragraph [0144]).

Regarding claims 10, 11, 23 and 24, Moy discloses specifying the size of a connection by using STS-1 as a metric (paragraph [0110]). As is well known in the art, the STS-1 data structure comprises virtual tributaries (VTs). Also, Moy discloses that the bandwidth of a connection be modified so as to increase the bandwidth capacity (paragraph [0152]), which translates to a multiple of STS-1.

Regarding claims 13 and 26, Moy discloses that the trail creation signal include a group ID and group position (paragraphs [0106]-[0107]; see also Figure 7).

4. Claims 32, 34, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moy in view of Jakobik et al. (US PAT 6195367, hereinafter Jakobik).

In regards to claim 32, Moy discloses a communication system (Figure 2, page 4, paragraph [0048], OTN) including a network management system (paragraph [0005]); optical cross-connect (Figure 2, page 4, paragraph [0048], OXCs) in communication with the network management system; a synchronous optical network (Figure 2, page 4, paragraph [0043 and 0048], OTN) including a first add/drop multiplexer (Figure 2, page 4, paragraph [0048], ADMs) and a second add/drop multiplexer (Figure 2, page 4, paragraph [0048], ADMs), the synchronous optical network in communication with the optical cross-connect. Moy teaches the network management system uses the optical cross-connect to initiate a connection create command at the first add/drop multiplexer; wherein the first add/drop multiplexer reserves resources for the connection in response to the connection create command, wherein the optical cross-connect then transmits a path setup message to the second add/drop multiplexer using the synchronous optical network to establish a path between the first add/drop multiplexer and the second add/drop multiplexer (page 5 paragraph [0056], an optical trail is a connection between two interfaced user devices (IUDs) that includes two TNDs connected to the IUDs on either side of the connection. The two TNDs meet the limitations of the first and second ADMs of the present invention. IUDs is the optical cross connect (section 0042, A UD may be an IP router such as the M40/M160 available from Juniper, Networks, Inc. of Sunnyville, Calif., an ATM switch such as the GX550 available from Lucent Technologies of Murray Hill, N.J., an ADM such as the DDM available from Lucent Technologies of Murray Hill, N.J., or an OXC such

as the SN 16000 available from Sycamore Networks of Chelmsford, Mass). An IUD (14) sends a trail creation signal to TND (46), which in turn is sent to TND (48) (page 8 paragraph [0104]). This meets the limitation of a network management system issuing a connection create command and sending this request to the first ADM and to the second ADM via UDI. The size of the connection to be created is indicated in the trail creation signal (page 8 paragraph [0110]), which indicates the resources that need to be reserved)).

Moy does not explicitly teach DCS or digital-cross-connect in addition to OXCs being using to setup path between ADMs.

Jakobik in the same field of endeavor teaches using DCS or digital-cross-connects (Figure 4, DSC 19) as a path connector between ADMs in addition to OXCs (column 8 lines 5-10, Signals carrying termination traffic between the express rings 4, 5 and the DCS switch 19 can also be switched directly between the nodes 2, 3 and the DCS switch 19)..

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Moy's system/method by incorporating the steps of using DCS switches in addition to OXCs to connect ADMs as suggested by Jakobik. The motivation is that (as suggested by Jakobik, column 3 lines 21-40) using DCS in addition to OXCs to connect Optical Nodes allows the CO to better utilize bandwidth incorporating signal type of both the low bandwidth per port and high number of ports that characterize DCS switches, and the high bandwidth per

port and low number of ports that characterize OXC switches; thus making the network efficiently utilize its bandwidth as per signal requirements.

In regards to claim 34, Moy teaches Optical cross connect launching path setup message to the second add-drop multiplexer.

Moy does not explicitly teach DCS or digital-cross-connect in addition to OXCs being using to setup path between ADMs.

Jakobik in the same field of endeavor teaches using DCS or digital-cross-connects (Figure 4, DSC 19) as a path connector between ADMs in addition to OXCs (column 8 lines 5-10, Signals carrying termination traffic between the express rings 4, 5 and the DCS switch 19 can also be switched directly between the nodes 2, 3 and the DCS switch 19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Moy's system/method by incorporating the steps of using DCS switches in addition to OXCs to connect ADMs as suggested by Jakobik. The motivation is that (as suggested by Jakobik, column 3 lines 21-40) using DCS in addition to OXCs to connect Optical Nodes allows the CO to better utilize bandwidth incorporating signal type of both the low bandwidth per port and high number of ports that characterize DCS switches, and the high bandwidth per port and low number of ports that characterize OXC switches; thus making the network efficiently utilize its bandwidth as per signal requirements.

In regards to claim 35 Moy teaches the second add/drop multiplexer sends a path acknowledge (Moy discloses using the RSVP signaling protocol (paragraph

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[0102]). RSVP (paragraph [0102]) use acknowledge messages to verify communications) to the optical cross-connect once the second add/drop multiplexer has reserved resources (The size of the connection to be created is indicated in the trail creation signal (page 8 paragraph [0110]), which indicates the resources that need to be reserved) for the connection specified by the path setup message (Moy discloses that an optical trail is a connection between two interfaced user devices (IUDs) that includes two TNDs connected to the IUDs on either side of the connection (page 5 paragraph [0056])).

Moy does not explicitly teach DCS or digital-cross-connect in addition to OXCs being using to setup path between ADMs.

Jakobik in the same field of endeavor teaches using DCS or digital-cross-connects (Figure 4, DSC 19) as a path connector between ADMs in addition to OXCs (column 8 lines 5-10, Signals carrying termination traffic between the express rings 4, 5 and the DCS switch 19 can also be switched directly between the nodes 2, 3 and the DCS switch 19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Moy's system/method by incorporating the steps of using DCS switches in addition to OXCs to connect ADMs as suggested by Jakobik. The motivation is that (as suggested by Jakobik, column 3 lines 21-40) using DCS in addition to OXCs to connect Optical Nodes allows the CO to better utilize bandwidth incorporating signal type of both the low bandwidth per port and high number of ports that characterize DCS switches, and the high bandwidth per

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port and low number of ports that characterize OXC switches; thus making the network efficiently utilize its bandwidth as per signal requirements.

In regards to claim 36 Moy teaches the path acknowledge (Moy discloses using the RSVP signaling protocol (paragraph [0102]). RSVP (paragraph [0102]) use acknowledge messages to verify communications) is received by the optical cross-connect and the optical cross-connect then reserves resources (The size of the connection to be created is indicated in the trail creation signal (page 8 paragraph [0110]), which indicates the resources that need to be reserved) for the connection specified by the path setup message (Moy discloses that an optical trail is a connection between two interfaced user devices (IUDs) that includes two TNDs connected to the IUDs on either side of the connection (page 5 paragraph [0056])).

Moy does not explicitly teach DCS or digital-cross-connect in addition to OXCs being using to setup path between ADMs.

Jakobik in the same field of endeavor teaches using DCS or digital-cross-connects (Figure 4, DSC 19) as a path connector between ADMs in addition to OXCs (column 8 lines 5-10, Signals carrying termination traffic between the express rings 4, 5 and the DCS switch 19 can also be switched directly between the nodes 2, 3 and the DCS switch 19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Moy's system/method by incorporating the steps of using DCS switches in addition to OXCs to connect ADMs as suggested by Jakobik. The motivation is that (as suggested by Jakobik, column 3 lines 21-40)

using DCS in addition to OXCs to connect Optical Nodes allows the CO to better utilize bandwidth incorporating signal type of both the low bandwidth per port and high number of ports that characterize DCS switches, and the high bandwidth per port and low number of ports that characterize OXC switches; thus making the network efficiently utilize its bandwidth as per signal requirements.

5. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moy and Jakobik as applied to claim 32 above and further in view of Sandstrom.

Moy and Jakobik teach path setup method via digital cross-connect as described in the rejections of claim 32 above.

Moy and Jakobik do not explicitly teach the connection create command establishes a virtual tributary connection.

Sandstrom in the same field of endeavor discloses SDH/SONET connections by adding or removing the paths formed of virtual-concatenated paths (col. 2, lines 59-65).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to dynamically adjust the bandwidth of the optical trails in the invention of Moy by adding or removing virtual-concatenated paths as taught by Sandstrom. One of ordinary skill in the art would have been motivated to do this in order to transport the packets as efficiently as possible in terms of the required bandwidth using Standard based SONET/SDH related virtual tributary connections which enables to efficiently segregate traffic according to service requirements.

6. Claims 27, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moy, in view of Graves et al. (US PAT 4764921), hereinafter referred to as Graves.

In regards to claims 27, 28, 30 and 31, Moy teaches a method of controlling communication resources in a SONET communication network (figure 2 OTN 4), method including; forming a SONET communication network having a set of add/drop/multiplexers (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048], a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) that comprise optical cross-connects (Figure 2, page 4, paragraph [0048] OXCs) and add/drop multiplexers (Figure 2, page 4, paragraph [0048] ADMs)) including a first add/drop multiplexers (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048], a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) that comprise optical cross-connects (Figure 2, page 4, paragraph [0048] OXCs) and add/drop multiplexers (Figure 2, page 4, paragraph [0048] ADMs)) and second add/drop multiplexer (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048]), a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) that comprise optical cross-connects Figure 2, page 4, paragraph [0048] (OXCs) and add/drop multiplexers (Figure 2, page 4, paragraph [0048] ADMs)) and a plurality of additional add/drop multiplexers (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048], a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) that comprise optical cross-connects (Figure 2, page 4, paragraph [0048] OXCs) and add/drop multiplexers (Figure 2, page 4, paragraph [0048] ADMs)); forming

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a communication connection (page 4 section 0051, links 50, 52, 54, 56, 62, 76 and 78, where each of these internal links is an optical link such as a fiber optic cable) between first add/drop multiplexer (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048]), a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) and second add/drop multiplexer (figure 2 elements 40, 42, 44, 46 and 48 and page 4 paragraph [0048], a plurality of transport network devices (Figure 2, page 4, paragraph [0048] TNDs) in response to a command from a network management system (page 8 paragraph [0104], an IUD (14) send a trail creation signal to TND (46), which in turn is sent to TND (48)); and modifying communication connection in response to a command from network management system (page 4 section 0152-0153, A modify signal requests the TNC to modify a bandwidth characteristic of an existing optical trail. For example, the modification signal request that the TNC decrease an amount of bandwidth provisioned for an optical trail, or change the priority of an optical trail in relation to other connections) wherein modifying communication connection occurs without determining usage statistics for all of set of add/drop multiplexers in SONET communication network (page 4 section 0152-0153, A modify signal requests the TNC to modify a bandwidth characteristic of an existing optical trail. For example, the modification signal request that the TNC decrease an amount of bandwidth provisioned for an optical trail, or change the priority of an optical trail in relation to other connections The TNC may be configured to grant the requested modification by either changing the existing optical trail in accordance with the request or by deleting the

existing optical trail and creating a new optical trail according to changes specified by the modification signal).

Moy does not explicitly teach the connection being a virtual tributary communication connection and modifying virtual tributary communication connection to become a virtually concatenated virtual tributary communication connection.

Graves in the same field of endeavor teaches the connection being a virtual tributary communication connection and modifying virtual tributary communication connection to become a virtually concatenated virtual tributary communication connection (figure 5, and column 2, lines 51-65, Figure 5 shows one multiplex frame of 32 virtual tributaries multiplexed together. A method of multiplexing digital signals comprising the steps of: providing p virtual tributaries each comprising $t.d.m.$ frames of information multiplexed in accordance with the method recited above, where p is a plural integer, all of the virtual tributaries having the same $t.d.m.$ frame period and the same number mn of time slots for m words one per channel, each of n consecutive bits; providing a predetermined synchronizing word as a predetermined one of the m words of a predetermined one of the virtual tributaries constituting a synchronizing information tributary; and multiplexing the p virtual tributaries together, one word from each virtual tributary cyclically in turn, to form a multiplexed superframe of word-interleaved virtual tributaries).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Moy's system/method by incorporating the steps

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of using virtual tributary communication connection and virtually concatenated virtual tributary communication connection as taught by Graves. The motivation is that Virtual concatenation combines several VT channels into bigger virtual pipes to carry higher bandwidth traffic. Such scheme economically benefits network providers by enabling them to provide higher bandwidth traffic cost efficiently.

Allowable Subject Matter

7. Claims 37 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments see pages 2-4 of the Remarks section, filed 7/23/2007, with respect to the rejections of claims 1-28 and 30-38 have been fully considered and are not persuasive.

35 USC 103 rejection of claims 1-28 and 30-38:

Applicant argues that (see page 3 second paragraph) *the present application claims the benefit of Provisional Application No. 60/183,487, filed February 18, 2000. Therefore, the present application has a priority date of February 18, 2000.* However,

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Examiner respectfully disagrees with the Applicant's assertion that all subject matters claimed in the instant application can claim priority to the Provisional Application No. 60/183,487. The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

Applicant's argument regarding claims 1-28 and 30-31 related to Moy's disclosure of "modify signal request" has not been disclosed in the Applicant's claimed priority Provisional Application No. 60/183,487. In other words the instant application is not entitled to a priority date of February 18, 2000 (filing date of Provisional Application No. 60/183,487) related to the claims that is rejected under 35 U.S.C. 103(a) as being unpatentable over Moy's disclosure of "modify signal request".

Applicant argues that (see page 3 second paragraph) *paragraphs [0152-0153] of Moy have been cited as disclosing a "modify signal request" in the rejections of Claims 1-28 and 30-31; however, no such "modify signal request" is disclosed in either of the 60/176,669 or 60/176,670 provisional applications.* However, Examiner respectfully points out that for the above submitted reasons, Moy disclosure of a "modify signal request" in the rejections of Claims 1-28 and 30-31 does not need to be disclosed in either of the 60/176,669 or 60/176,670 provisional applications. As discussed above, claims 1-28 and 30-31 which are rejected by Moy's disclosure of "modify signal

request", are only entitled to priority data of instant Application's filing date of 2/15/2001; not February 18, 2000 (filing date of Provisional Application No. 60/183,487). Similar reasons apply to Applicant's argument related to claim limitations *"optical cross-connect"* and *"an optical cross-connect that is in communication with a network management system"*.

Moreover, Applicant argues that (see page 3 third paragraph) *paragraph [0048] of Moy has been cited as disclosing an "optical cross-connect" in the rejections of Claims 32-36; however, no such "optical cross-connect" is disclosed in either of the 60/176,669 or 60/176,670 provisional applications.* However, Examiner respectfully disagrees with the assertion. Provisional Application 60/176,669 page 2 section 3 Gigabit Ethernet: discloses an optical network element (ONE) being one of an opto-electronic or all-optical cross-connect, a WDM add/drop multiplexer, or a WDM terminal.

Applicant further argues that (see page 3 third paragraph) *neither of the provisiona lapplications discloses an optical cross-connect that is in communication with a networkmanagement system as claimed in independent claim 32.* However, the Examiner respectfully disagrees with the assertion. The 60/176,669 provisional application in page 10 section 3.3 Signalling: second paragraph teaches the optical network element (optical cross-connect) in communication with a management station.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salman Ahmed whose telephone number is (571) 272-8307. The examiner can normally be reached on 8:00 am - 4:30 pm.

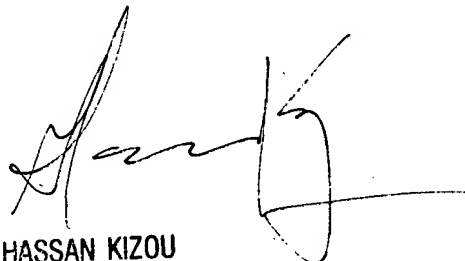
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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SA
Salman Ahmed
Patent Examiner
8/15/2007



HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600